

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Cassandra Gore

Case No. 05-82613

Chapter 13

Social Security No. xxx-xx-4930

Address: 2 Kilburn Lane, Durham, NC 27707-

Debtor

MOTION TO MODIFY PLAN

NOW COMES the Debtor, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on September 7, 2005, with the Chapter 13 plan being subsequently confirmed on December 29, 2005.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:

From: \$1,710.00 per month for: (1) A total of 36 payments, or (2) Until such time as the Debtor has paid to the Chapter 13 Trustee sufficient funds to provide the unsecured creditors (who have valid filed claims) a dividend of 25 %, whichever period of time is longer.

To: \$1,710.00 per month through December, 2009, followed thereafter by \$1,575.00 per month, starting in January, 2010, for: (1) A total of 36 payments, or (2) Until such time as the Debtor has paid to the Chapter 13 Trustee sufficient funds to provide the unsecured creditors (who have valid filed claims) a dividend of 0%, whichever period of time is longer.

3. To facilitate the proposed modification, the Debtor hereby surrenders any interest she may have in collateral securing the following claims:

Creditor and Claim No.	Collateral
Onyx Acceptance Corporation (claim no.3)	1996 BMW 328i
Performance BMW Mechanics Lien	

4. At the time of the filing of the Debtor's Chapter 13 bankruptcy, the 1996 BMW 328i had a fair market value of \$7,268.00.
5. At the time of the filing of the Debtor's Motion to Modify, the 1996 BMW 328i had a fair market value of \$5,152.50.
6. The 1996 BMW 328i has depreciated in the amount of \$2,115.50 since the filing of the Debtor's Chapter 13 bankruptcy.
7. That, pursuant to *In re Miller* (Unpublished, MDNC 99-81339), the Debtor's Chapter 13 plan has paid approximately \$4,980.76 to Onyx Acceptance Corporation, exceeding the depreciation on the 1996 BMW 328i in the amount of \$2,865.26.
8. The changed circumstances that justify the proposed modification are as follows:
 - a. Upon information and belief, the Debtor took her 1996 BMW 328i in for routine repairs and the dealership made substantial and expensive unauthorized repairs, which she could not afford and requiring surrender of the vehicle.
9. An Amended Schedule I for the Debtor is attached hereto and is incorporated hereto by reference.
10. An Amended Schedule J for the Debtor is attached hereto and is incorporated by reference.
11. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes as detailed on the attached plan sheet:
 - a. Surrender of property.
 - b. Change in dividend to unsecured creditors.

WHEREFORE, the Debtor prays that this Court grant her Motion, and modify the Chapter 13 plan accordingly.

Dated: January 7, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz
Edward Boltz
North Carolina State Bar No.: 23003
6616-203 Six Forks Road
Raleigh, N.C. 27615
(919) 847-9750

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
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In Re:

Cassandra Gore

Case No. 05-82613

Chapter 13

Social Security No. xxx-xx-4930

Address: 2 Kilburn Lane, Durham, NC 27707-

Debtor

CERTIFICATE OF SERVICE

I, Charlene Free, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on January 7, 2010, I served copies of the foregoing **MOTION TO MODIFY PLAN** by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
P.O. Box 3613
Durham, N.C. 27702-3613

Michael West
U.S. Bankruptcy Administrator
P.O. Box 1828
Greensboro, N.C. 27402-1828

Cassandra Gore
2 Kilburn Lane,
Durham, NC 27707-

Performance BMW
Attn: Managing Agent
1806 North Fordham Blvd.
Chapel Hill, NC 27514-2201

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s/ Dawn Raynor
Dawn Raynor

In re **Cassandra Maria Gore**Case No. **05-82613**

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by a married debtor in a chapter 12 or 13 case whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Separated	RELATIONSHIP None.	AGE
EMPLOYMENT	DEBTOR	SPOUSE
Occupation	Director of Human Resources	
Name of Employer	Durham Marriott	
How long employed	5 years 8 months	
Address of Employer	201 Foster Street Durham, NC 27701	

INCOME: (Estimate of average monthly income)

Current monthly gross wages, salary, and commissions (pro rate if not paid monthly)

Estimated monthly overtime

	DEBTOR	SPOUSE
	\$ 3,433.39	\$ N/A
	\$ 0.00	\$ N/A
SUBTOTAL	\$ 3,433.39	\$ N/A

LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify)

	\$ 456.28	\$ N/A
	\$ 227.80	\$ N/A
	\$ 0.00	\$ N/A
	\$ 0.00	\$ N/A
	\$ 0.00	\$ N/A

SUBTOTAL OF PAYROLL DEDUCTIONS

	\$ 684.08	\$ N/A
TOTAL NET MONTHLY TAKE HOME PAY	\$ 2,749.31	\$ N/A

Regular income from operation of business or profession or farm (attach detailed statement)

Income from real property

Interest and dividends

Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

Social security or other government assistance

(Specify)

	\$ 0.00	\$ N/A
	\$ 0.00	\$ N/A
	\$ 0.00	\$ N/A
	\$ 560.00	\$ N/A
	\$ 0.00	\$ N/A
	\$ 0.00	\$ N/A
	\$ 0.00	\$ N/A
	\$ 0.00	\$ N/A
	\$ 0.00	\$ N/A

Pension or retirement income

Other monthly income

(Specify)

TOTAL MONTHLY INCOME	\$ 3,309.31	\$ N/A
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TOTAL COMBINED MONTHLY INCOME

\$ **3,309.31**

(Report also on Summary of Schedules)

Describe any increase or decrease of more than 10% in any of the above categories anticipated to occur within the year following the filing of this document:

-NONE-

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED

Complete this schedule by estimating the average monthly expenses of the debtor and the debtor's family. Pro rate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

Rent or home mortgage payment (include lot rented for mobile home)		\$	0.00
Are real estate taxes included?	Yes <u> </u> No <u>X</u>		
Is property insurance included?	Yes <u> </u> No <u>X</u>		
Utilities:			
Electricity and heating fuel		\$	180.00
Water and sewer		\$	120.00
Telephone		\$	0.00
Other See Detailed Expense Attachment		\$	175.00
Home maintenance (repairs and upkeep)		\$	59.00
Food		\$	284.31
Clothing		\$	100.00
Laundry and dry cleaning		\$	50.00
Medical and dental expenses		\$	60.00
Transportation (not including car payments)		\$	201.00
Recreation, clubs and entertainment, newspapers, magazines, etc.		\$	60.00
Charitable contributions		\$	0.00
Insurance (not deducted from wages or included in home mortgage payments)			
Homeowner's or renter's		\$	60.00
Life		\$	0.00
Health		\$	0.00
Auto		\$	60.00
Other		\$	0.00
Taxes (not deducted from wages or included in home mortgage payments)			
(Specify) See Detailed Expense Attachment		\$	159.00
Installment payments: (In chapter 12 and 13 cases, do not list payments to be included in the plan.)			
Auto		\$	0.00
Other		\$	0.00
Other		\$	0.00
Other		\$	0.00
Alimony, maintenance, and support paid to others		\$	0.00
Payments for support of additional dependents not living at your home		\$	0.00
Regular expenses from operation of business, profession, or farm (attach detailed statement)		\$	0.00
Other See Detailed Expense Attachment		\$	1,741.00
TOTAL MONTHLY EXPENSES (Report also on Summary of Schedules)		\$	3,309.31

[FOR CHAPTER 12 AND 13 DEBTORS ONLY]

Provide the information requested below, including whether plan payments are to be made bi-weekly, monthly, annually, or at some other regular interval.

A. Total projected monthly income		\$	3,309.31
B. Total projected monthly expenses		\$	3,309.31
C. Excess income (A minus B)		\$	0.00
D. Total amount to be paid into plan each	Monthly	\$	1,710.00
	(interval)		

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED
Detailed Expense Attachment

Other Utility Expenditures:

Cable Television	\$	125.00
Internet	\$	50.00
Total Other Utility Expenditures	\$	175.00

Specific Tax Expenditures:

Real Property Taxes	\$	142.00
Personal Property Taxes	\$	17.00
Total Tax Expenditures	\$	159.00

Other Expenditures:

Emergencies/Miscellaneous	\$	81.00
Personal Care	\$	30.00
Pets	\$	56.00
Chapter 13 Plan	\$	1,574.00
Total Other Expenditures	\$	1,741.00

CH. 13 PLAN - DEBTS SHEET (MIDDLE DISTRICT - STEP PLAN)				Date: 9/15/09	
				Lastname-SS#: gore-4930	

RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN				SURRENDER COLLATERAL			
Retain	Creditor Name	Sch D #	Description of Collateral	Creditor Name	Description of Collateral		
	Horton Hills HOA		HOA	Onyx	Vehicle		

ARREARAGE CLAIMS ON RETAINED COLLATERAL				REJECTED EXECUTORY CONTRACTS/LEASES			
Retain	Creditor Name	Sch D #	Arrearage Amount	Creditor Name	Description of Collateral		
	Horton Hills HOA		\$416	Onyx	1996 BMW		
				Performance BMW	1996 BMW		
	National City Bank		\$1,933				
	SPS		\$729				

LTD - DOT on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY							
Retain	Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	National City Bank		\$890	n/a	n/a	\$890	Residence
	SPS		\$307	n/a	n/a	\$307	Residence
				n/a	n/a		

STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)							
Retain	Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
				7.00			
				7.00			
				7.00			
				7.00			

STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)							
Retain	Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
				7.00			
				7.00			
				7.00			
				7.00			
				7.00			

ATTORNEY FEES (Unpaid Part)	Amount	
Law Offices of John T. Orcutt, P.C.		
SECURED TAXES	Secured Amount	
IRS Tax Liens		
Real Property Taxes on Retained Realty	\$12	
UNSECURED PRIORITY DEBTS	Amount	
IRS Taxes		
State Taxes		
Personal Property Taxes		
Alimony or Child Support Arrearage		
COSIGN PROTECT (Pay 100%)	Int.%	Payoff Amount
All 'Co-Sign Protect Debts (See***)		
GENERAL NON-PRIORITY UNSECURED	Amount to Pay*	
DMI = None(\$0)		\$840

PROPOSED CHAPTER 13 PLAN			
\$	1574	/month for	12 months, then
\$	N/A	/month for	N/A months.**
Definitions			
Sch D # = The number of the secured debt as listed on Schedule D.			
Adequate Protection = Required monthly 'Adequate Protection' payment.			
* = Minimum of DMI x ACP, minus all co-sign protect debt.			
** = Plan duration is subject to "Duration of Chapter 13 Plan" provision.			
*** Co-sign protect on all debts so designated on filed schedules D, E and F			
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Other Miscellaneous Provisions